

Two Tribal Law Cases (Documents) (Wāḥidī Sultanate, South-West Arabia)

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(Continued)

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THE DISPUTE OVER THE RUNAWAY WIFE

The general procedure in this case is very similar to that of the foregoing, but here we have the decision of the tribal mukāddam (pl. maḳādimah) or headman. Bin 'Awzar's solution of the problem is, of course, very different from a legal decision in a European court to-day, but our methods would probably fail where decisions such as this are effective in obtaining justice. The two parties are constrained to produce other individuals to give evidence to clear or convict them, on an oath which, if false, they firmly believe will swiftly bring upon them the direst consequences.¹ Bin 'Awzar, however, envisages a possibility that neither party will be able to produce suitable evidence, and should this happen, he has instructed them to refer back the case to him.

It is clear from this case that the plaintiff is not acting from a sense of outraged sentiment, but for economic reasons, for dowries are high in Wāḥidī territory. Amongst the ra'iyah, dowries of 1,300 Maria Theresa dollars have even been known, but perhaps their dowries are higher than those of tribal women. In Ḥaḍramawt the peasant-cultivator pays a dowry of 60 to 100 riyals for a virgin bride, because she is a useful economic asset, working in the fields and house, but the mashā'ikh only pay about 35 riyals for a virgin shaikhah, and even the 'Alawī saiyids have a standard 40 riyals for a virgin bride, though by arrangement between the two families it

¹ Landberg has described how oaths are taken at the tomb of a saint: "On se range en cercle autour du coffre (tābūt), ou le simple tombeau (ḳabr), s'il n'y a pas de tābūt. Si le misḳijid (mosque) ou la ḳubbah (domed tomb) sont petits, on s'aligne devant la porte. Lorsqu' il y a plusieurs personnes appelées à prêter serment, on commence d'abord par une marche autour du sanctuaire, en se plaçant deux à deux, les uns après les autres. On chante des marādjiḳ. Leur arrivée est signalée par des salves de fusil . . . Quelque saiyid ou shaikh est toujours présent à ces cérémonies pour empêcher que le sang coule, car l'excitation est toujours grande. Ce n'est pourtant qu' une partie remise; hors du territoire du wali la vengeance cherche sa victime jusqu'à ce qu' elle la frappe. Cette pratique de se purger d'une accusation moyennant le serment est la ḳasamah des anciens Arabes (*Arabica V*, op. cit., pp. 141-2).

may be more. The reason stated for the strange practice of the upper classes in paying less for their brides than peasants, is that their women do far less work than a peasant woman, or even none at all.

(٤)

حضر وا عندى فى مَحْكَمَة مِيفَعَه سَالِم بن حُسَيْن لَشَرَفْ
 با عَوْظَه وعلی بن سالم با تُرَاب دُمِيدِم با عَوْظَه . وقدّموا محبوسين
 بيد قايم ميفعه محمد بن سعيد الواحدى لبعضهم البعض فى تَقْد
 وحقّ عند القبيله هلّ حمَدَ بْنَ ذِيَّيْب على ما فى سوافهم
 وقواعدهم وذلك فى حرمة سالم بن حسين با عَوْظَه لَشَرَفْ ،
 وغيره نهب الغنم والراحله ؛ وأجيب لهم قائم ميفعه ، حُكَّام
 الذى اختارهم من اهل با عَوْظَه .

(٥)

(نقل) دَعْوَى سالم بن حسين

بِاللّٰه وعندك يا بن عَوْزَر إنّها سارت حرمتى عند ابوها
 وإننى تبعتها بيومها وطرحت عدلى فى ما ترتقر فيه حرمتى فى
 سَوَاس القبيله . وإنّه غلب با تُرَاب من عدلى ولا سَرَّح حرمتى .
 وعنّى وتعبنّى ؛ ويا ما نهبتة على با تراب ، وهو مقفّى ، لا
 يصيبنى بقافى على ما فى رَزِيْمَة هل با عَوْظَه .

(٦)

(نقل) تَقَوَّى عَلَى بَنِ سَالِمٍ بِأُتْرَابِ
تَقَوَّائِي يَا بَنَ عَوْزَرَ إِنَّ عَارِي جَاتَنِي بِهَا هَدَّةً وَتَقْصُورَ
وَإِنَّهُ جَانِي بَنِ أَشْرَفٍ وَجَلَسَ لِي ، وَوَقَفْتُ لَهُ بِحَرَمَتِهِ وَيُسَلِّمُ مَا
عِنْدَهُ مِنْ سَلَبِ الْحَرَمِ الَّذِي تَزْتَقِرُّ فِيهِ الْحَرَمَةُ فِي قَوَاعِدِ الْقَبِيلَةِ ،
وَإِنَّهُ مَنَعَ يَسْلَمَ . وَقَدْنِي عِنْدَ اللَّهِ وَعِنْدَكَ يَا مُنْصِفَ الْحَقِّ .

(٧)

(نقل) حَكِيمُ بْنُ عَوْزَرَ بِأَعْوْظِهِ
وَجِبَ فَصَلْ بَيْنَ بَنِ أَشْرَفٍ وَاهِلِ بَنِ أُتْرَابٍ . وَجِبَتْ
شَاهِدَيْنِ عَلَى بَنِ أَشْرَفٍ ، عَدْلَيْنِ لَا خُصْمًا وَلَا قُسْمًا ،
يُعَرِّضُونَ عَلَى قَائِمٍ مِيفَعَهُ ، يَشْهَدُونَ لِلَّهِ وَبَيْنَ إِيْدَاتِ اللَّهِ ، شَهَادَةً
جَازِمَةً لَزِمَهُ ، أَنْ سَالِمُ بْنُ حُسَيْنٍ طَرَحَ عَدْلَ لُبَا تَرَابٍ فِي
حَرَمَتِهِ فِي مَا تَزْتَقِرُّ فِيهِ الْحَرَمَةُ ، وَالْعَدْلَى غَرِيمٌ ، وَإِنْ بَنُ تَرَابٍ
قَفَا وَلَا لِلْحَرَمِ سَلَبٌ بَاقٍ عِنْدَ بَنِ أَشْرَفٍ قَارَ . وَلَا بَلَّغَ بَنُ
أَشْرَفٍ بِالشُّهُودِ صَابٌ . عَلَى مَا فِي سَوَاسِ الْقَبِيلَةِ لِلْحَرَمِ شَقِيَّةٌ
كُلَّ يَوْمٍ مَكْيَالَيْنِ وَنَصَّ حَبٌّ ؛ وَمَا شَكَّهُ عَلَى الْمُقْفَى مَا فِيهِ قَافِي .
وَإِنْ لَغِبَ بِالشُّهُودِ بَنُ حُسَيْنٍ أَشْرَفٌ وَجِبَ عَلَى أَهْلِ بَنِ تَرَابٍ

خَمْسَه حَلَّافَه حَتَّامَه، أَوَّلُهُم دُمَيْدِم وتَالِيَهُم لَقُور، عَلَى بَا
لَهْمَان، يَحْلِفُونَ بِاللَّهِ الرَّحْمَانِ الرَّحِيمِ، مَالِي السَّمَا بَرَحْمَتِهِ،
وَرَأْسُكَ يَا بَا لَهْمَان، يَمِين مَطْفِيهِ النَّيَّارِ وَمُخْلِيهِ الدِّيَارِ، قَاطَعَتِ
الشَّرَّاءَ وَالثَّرِيَّةَ — لَا طَلَعَ لَنَا عَدْلِي غَرِيم فِي مَا تَزْدَقِر فِيهِ حَرَمَةُ
بَنِ حُسَيْنٍ لَشَرَفٍ، وَإِنْ عِنْدَهُ مِنْ سَلْبِنَهَا لَا حَدَّ مَا هُوَ حَدٌّ .
وَلَا حَلَفُوا خَرَّاجُوا، وَإِنْ لَغَبُوا كُلَّهُمْ مَرْدُّهُمْ عِنْدِي . هَذَا مَا
حَكَمَ بِهِ الْعَاقِلُ مُحَمَّدُ بْنُ سَعِيدٍ بَنِ عَوْزَرٍ بَا عَوْظِهِ . وَاللَّهُ يَعْلَمُ
بِالصَّوَابِ .

(4) *A Document of Procedure*

Sālim bin Ḥusain Lashraf Bā 'Awḍah (1), and 'Alī bin Sālim Bā Turāb Dumaidim Bā 'Awḍah attended the court of Maifa'ah before me (2). They delivered over hostages into the hands of the qaim of Maifa'ah, Muḥammad bin Sa'īd al-Wāḥidī, as a guarantee of one (tribe) to the other, in the (matter of) the scrutiny (3) of the case, and the setting forth of claims (in the customary way of) the tribe of the Ahl Ḥamad bin Dhiyaib (4), according to their precedents (5) and laws. This (action took place) in (the case of) the wife of Sālim bin Ḥusain Bā 'Awḍah Lashraf and, over and above that, the theft of the sheep and the she-camel (6). I, the qaim of Maifa'ah bring (7) them the judges whom I choose from the Āl Bā 'Awḍah.

(5) *A Complaint*

Copy of the Complaint of Sālim bin Ḥusain :—

(I bring a complaint) before (8) God, and before you, oh Bin 'Awzar (9), that my wife ran away to her father's (house), and that I followed her at once, and deposited my pledge (10) for that on account of which my wife is with-held, according to the procedure of the tribe, but Bā Turāb refused any pledge, and did not produce my wife. So help me, and trouble me (11)! What I stole from Bā Turāb

when he was refusing (12), does not cause me to incur any liability for a fine (13), according to that which (comes) within the custom of the Ahl Bā 'Awḍah.

(6) *A Defence*

Copy of the Defence of 'Alī bin Sālīm Bā Turāb :—

My defence, oh Bin 'Awzar, is that my "honour" (14) came to me, being beaten, and not having received in full (the clothes and jewellery due to her (15)), and that Bin Lashraf came to me and sat in my house, and I agreed to return (16) him his wife if he would deliver (to her) the woman's clothing and jewellery he still owes her, (and) on account of which the woman is with-held, in accordance with the laws of the tribe ; but he refused to pay, and I am (therefore) before God, and before thee, oh (thou who) givest impartial justice (17).

(7) *A Judgment*

Copy of the Decision of Bin 'Awzar Bā 'Awḍah :—

A decision (in accordance with the circumstances (18)) between Bin Lashraf and the Ahl Bā Turāb is necessary. I have decided that two witnesses for Bin Lashraf, honourable persons, neither parties in opposition (to the other family) nor interested persons, should be produced to the qaim of Maifa'ah, to testify to God, and before the hands of God (19), an absolute and irrevocable testimony, that Sālīm bin Ḥusain deposited a pledge for Bā Turāb, in respect of his wife, on account of that for which his wife is with-held, the pledge-holder being responsible (20) ; but that Bā Turāb refused, and that no clothing and jewellery due to the woman remain outstanding with Bin Lashraf. If Bin Lashraf produces the witnesses, according to the usages of the tribe, he will obtain damages for his wife, for each day (21) two measures (22) and a half of grain ; and for that which he took from the person refusing (23) he shall pay no fine.

If Bin Ḥusain Lashraf fails (to produce) witnesses, the Ahl Bā Turāb must (produce) five persons, each individual swearing a single oath (24) by (the saint) Bā Lahmān (25), the first of whom shall be Dumaidim (26) and the second Laḳwar, swearing by God the Merciful the Compassionate who fills the Heavens with his mercy (27), and your head, oh Bā Lahmān, an oath extinguishing fires, emptying houses, cutting off wealth and fortune (28), (that) he did not produce a responsible pledge-holder for us, in the matter of that on account of

which the wife of Bin Ḥusain Lashraf is with-held, and that he (still) owes of her clothing and jewellery the following separately detailed items (29). If they swear, they are acquitted. If all fail (30) they should refer (the case) to me.

This is the decision which the headman Muḥammad bin Sa'īd bin 'Awzar Bā 'Awḍah gave. And God knows what is correct.

NOTES

(1) Note the spelling 'Awḍah or 'Awḏah.

(2) I.e. Muḥ. b. Sa'īd.

(3) I was told that naḳd al-kalām meant scrutiny of the case to see whether it was a shari'ah or 'adah case, but I cannot think that was the intention here.

(4) One of the three sub-tribes of the Bā 'Awḍah, the Hal Yamanah, the Āl Bihārah, and the Hal Dhiyaib. Landberg, *Arabica V*, op. cit., p. 231, names them the Āl Ḥusain b. 'Umar, the Āl 'Alī bin 'Umar, and the Hal Dhiyaib b. 'Umar. They are doubtless the same.

(5) The term sawālif seems to be of general use amongst Arab tribes, and is even found in the Sudan amongst the Beja (J. S. Trimingham, *Islam in the Sudan* (London, 1949), p. 180, footnote). The phrase above might also be rendered, "according to ancient custom and law."

(6) I.e. the theft of these animals by Lashraf from Bā Turāb as a sort of forcible compensation when the latter withheld Lashraf's wife. Lashraf, even if he had only paid over part of the agreed dowry, was nevertheless being deprived of services for which payment had been made.

(7) Note the change to the present tense, a not infrequent occurrence in narrative.

(8) As in the other complaint bi-'llāh is used, whereas in other places 'ind (at) is used. It might be better here to translate the phrase as "by God".

(9) Bin 'Awzar is the muḳaddam (chief) of the Ba 'Awḍah, a stoutish man, light skinned, for a Wāḥidī tribesman.

(10) This pledge may be placed in the hands of any responsible person. Lashraf deposits a pledge for the unpaid portion of the dowry with a third party. He does not, of course, place it in the hands of his father-in-law, in the hope that the latter would return his wife.

(11) I.e. "to produce witnesses", as in the previous set of documents.

(12) I.e. to return Bin Lashraf's wife. The sense is clear though the word is difficult.

(13) The term employed, *ḳāfī*, was explained to me as being the responsibility to return a stolen camel (and here, no doubt, the sheep also), and to pay a fine of five *ḳurūsh* (dollars) in addition. See note 12 to document 1.

(14) The term which has been translated as "honour" is actually the word *ʿār*, which is equivalent to the word *ʿaib*, a well-known term, which might perhaps be rendered as "impugnment of personal or tribal honour". It is used here as a circumlocution for "my daughter", as the tribesman dislikes reference to a female relative in the presence of others. It is, in fact, a term used to mean any female relative, because one's honour can be impugned in them. C. von Landberg, *Ḥadramoūt* (Leiden, 1901), p. 173, gives the term *maʿūrah* from the same root, as "la femme parce qu'elle est le *ʿār* de l'homme, la chose qu'il doit défendre Le *djār* = *rabiʿ* ou *nazīl* est aussi mon *ʿār*", etc.

It is possible that a tribesman only cares about the sexual conduct of his womenfolk insofar as it reflects upon his own honour, though any tribesman here would impress on one, if questioned, the extreme measures he would take in the case of any sexual misdemeanour on the part of his womenfolk. In Daw'an, however, I was informed of a type of tribal custom where, if a tribesman finds his wife in *flagrante delicto* with another, he demands payment with damages, to divorce the woman, who is then married by the adulterer. This is known as *Irṭibāt*, and is mentioned by ʿAlī bin Aḥmad bin Saʿīd Bā Ṣabrain in his *Djumal min al-Muhimmāt al-Dīniyah* (written 1294 H.), a copy of which is described in *BSOAS*. (1951), op. cit. A Wāḥidī Sultan with a well-deserved reputation for gallantry, whispered to me that the sister of one of the individuals whose name figures in this collection had a reputation not free from reproach. I find it difficult, however, to believe that Wāḥidī tribeswomen can indulge in secret affairs of the heart, owing to the virtual impossibility of concealment. Ṭabarī, *Tafsīr*, v, 14, quotes Ibn ʿAbbās as saying of the Arabs of the *Djāhiliya*, "They used to forbid (*ḥaram*) such adultery (*zinā*) as appeared, but to allow (*istaḥall*) what was hidden, saying, 'concerning that which appears, it is disgrace (*luʿm*),

but as for what is hidden, that does not matter.' ” This reveals the essence of the tribesman's attitude to the subject.

In this connection, the gist of a conversation I had with the new Sultan Nāṣir may be quoted. The women of the sultans never leave the house, except perhaps two or three times in the year, for a funeral, feast, etc., when they may visit another house in 'Azzān.

A woman is then accompanied by her husband, leading the way, the woman following at a little distance. If the Sultan did not accompany his wife, the Bedouin meeting her, might cut off an ear or a lock of hair as an insult (ʿār) to the Sultans. Their women do not laugh or talk much in the village of 'Azzān itself lest they be heard by Bedouin, who would say such conduct was unseemly. Should the Sultan's wife go to the window to look out on account of some noise in the street, he would reprimand her sharply and ask why she had done so.

Sultans usually, it seems, marry tribeswomen. Sultan Nāṣir himself was betrothed to a girl of the Āl Liswad, near Ḥabbān, and I was present at the betrothal visit and feast. Sultans can, of course, marry from all sections of the population except the Saiyids. In 'Azzān, the 'Askar al-Ṣultān (Soldiers of the Sultan), now mostly merchants owning a little land (ṭīn), and no longer regarded as tribesmen, seem to allow their women to come and go more freely than the Sultans. The 'abid women move at their liberty, unveiled. In the tall dārs here, women live on the floor below the roof, and on the roof itself during the cooler portions of the day. Visiting a mashā'ikh house in Ruḍūm, our host preceded us upstairs shouting “ṭarīḳ” as he went, to avert the women, as is common practice in South Arabia. In general, women of noble blood are much less restricted in Tarīm and Saiwūn than in Wāḥidī country, but wives of the Shībām merchants seem more closely confined, like women of the Wāḥidī towns.

(15) Lit. “shortage”, but it refers to what is known in Wāḥidī territory and elsewhere as kashsh (see Landberg, *Gl. Dath.*), i.e. appurtenances of a woman, such as jewellery, clothing, and cosmetics, kept in a wooden box roughly painted in traditional style. These are agreed upon in the marriage settlement, but actually delivered later, or at least the full amount is usually delivered later. In Wāḥidī houses the woman, i.e. wife of the owner, has a little room of her own (khalwah), sometimes used for more honoured

guests who may wish a little privacy, or where a few friends are entertained when the main reception room is not used. The woman is not, of course, present on these occasions. In this room she keeps her silver ornaments in the wooden box, and the walls are hung with a great variety of household gear, all this known as *shakkah*; there are basket containers of all sorts and sizes, gaily coloured palm-fibre trays (*tafālah*) for rice, etc., cloth or food stored in baskets, wooden bowls, incense burners, the cosmetic-pots, often old powder-horns of metal, or beaded glass bottles like African work, leather pillows, Japanese enamelled plates, and innumerable odds and ends, nearly all hung on the walls. The floor is covered with matting and the whole, when new, is pleasing.

(16) The sense of the context is clear, but the verb *waḳḳaf* is a little difficult. The reading is, no doubt, correct, as the texts were checked several times. One might otherwise have expected *waffakt*, but perhaps, by transposition, this dialect gives *waḳḳaf* the sense of *waffak*.

(17) Bin 'Awzar is addressed here.

(18) This is how the term *faṣl* (lit. *separation*) was explained. It was also explained by the term *ḥukm*, which appears in the title of this document, but cf. vocabulary to the texts.

(19) This should not, I think, be regarded as an anthropomorphic phrase, but merely as Arabic idiom.

(20) Presumably to pay over the pledge, if required. Vide *supra*.

(21) I.e. for each day that his wife has been withheld by her father, the latter paying over the damages. Conversely, a woman who has fled to her people cannot re-marry or claim support from her husband (Landberg, *Ḥaḍramūt*, 163).

(22) I assume that a *mikyāl* is the same as a *kailah*. Wāḥidi cubic measures are as follows :—

2 kailahs (pl. <i>akyāl</i>)	1 mudd
2 mudds	1 <i>mīzarah</i> (<i>maizarah</i>)
2 <i>maizarahs</i>	1 <i>ṣā'</i>
2 <i>ṣā'</i>	1 <i>dhahab</i> (pl. <i>dhihāb</i>)

According to Landberg, *Arabica* V, op. cit., p. 292, the *dhahab* is equal to eight Aden bushels. My informants said it was equivalent to 12 *muṣrās* or 2 *ḳahāwils*.

(23) He must, of course, return the stolen animals.

(24) One individual *ḥallāfah* or oath-giver might take five separate

oaths, but five ḥallāfah ḥattāmahs will only take a single oath each, this, no doubt, being regarded as a more stringent oath than the former type. It is necessary to insert ḥattāmah to specify that five different persons shall take the oath.

(25) Bā Lahmān is the walī (saint) at Djöl al-Shaiḫ. The present manṣab there is Shaiḫ ‘Alī b. Kāsīm b. ‘Abd al-Mānī’, the latter being the family name of the Mashā’iḫ there. Cf. Landberg, *Arabica* V, op. cit., p. 172, where it is noted that the manṣab of that time was a mubashshi’, i.e. one able to perform trial by ordeal. For bish‘ah see also ‘Ārif al-‘Ārif, *al-Kaḍā’ bain al-Badw* (Jerusalem, 1933), p. 95, and Landberg, *Gl. Dath*. The ‘Abd al-Mānī’ have “spiritual influence” over the Bā ‘Awḍah. Landberg’s visit to Djöl al-Shaiḫ was remembered. The shaiḫ asked him for 200 riyāls as a gift for having entertained him.

(26) Dumaidim is the father of Bā Turāb, but I have not recorded who Laḳwar is, perhaps he may be the uncle of Bā Turāb.

(27) Raḥmah, which has also the sense of “rain”. In Ḥaḍramawt it is said: “Ṣultān Ḥaḍramawt al-raḥmah,” i.e. “The sultan of Ḥaḍramawt is Rain”.

(28) Thariyah, here translated as “fortune”, was explained to me as meaning “inheritance”. It seems to me that the phrase is really a jingle, but perhaps the word dhurriyah offspring is also in the minds of the speakers. For types of oaths in North Arabia, see “‘Ārif al-‘Ārif”, op. cit., pp. 72 ff.

(29) Lit. “to the limit of what is a limit”.

(30) I.e. if neither party is able to produce the required number of witnesses.

SUMMARY

This case does not seem to me to be inconsistent with shari‘ah law, while in two important points it agrees exactly with principles enunciated in the fourteenth century *Aḥkām al-Man‘ah* (cf. supra) which tends to bear out the contention of the author of that work, namely that Man‘ah is not inconsistent with shari‘ah but an extension of it. On fol. 72b the author says that the plaintiff in all the Man‘ah laws has the onus of the proof, and on him who denies the charge is the necessity for taking the oath to this effect. The *Aḥkām al-Man‘ah* also states (fol. 57b) that “whosoever takes away his (relative-in-law’s) wife from the house of his relative-in-law (ṣihr) without cause, and without fault on the part of the husband, has done wrong, and

must pay restitution (niṣfah) to the extent of a ram worth ten dirhams". Fines prescribed in special cases follow. Comparison may be made also with the section on *Qasamah* in *Bukhārī*, *Ṣaḥīḥ* (trans. O. Houdas (Paris, 1914), iv, 414.

APPENDIX

The Appointment of a Maṣṣab of the Maṣḥā'ikh

The maṣṣab in Southern Arabia is the ruler of the sacred enclaves known as *Ḥawṭah*, independent entities owing obedience to no temporal overlord. The *Ḥawṭah* is a centre for the tribes, neutral territory upon which they can meet to trade or settle disputes.¹ The maṣṣab is naturally a person of great importance in the country, and acts as impartial mediator between warring tribes. In turn, the tribes have some say in the election of a maṣṣab of *Maṣḥā'ikh*, in the *Wāhidī* area, but among the *Sādah* in *Ḥaḍramawt* the maṣṣabate seems usually to be hereditary. The notes upon which this appendix is based were taken from the Maṣṣab of *Ṣa'id* himself, *Shaiḫ* 'Abdullāh bin Muḥammad Bā *Qādir*, of the Bā *Qādir* *Maṣḥā'ikh*, descended from *Qādir* bin 'Abdullāh, who is buried at *Ṣa'id*.

When a maṣṣab dies, a *ḥawīk* (*khādim*, servant) or *ṣabī* (of the non-Arab but Arabic-speaking submerged race known in this part of South Arabia as *Ṣubyān*) is sent with a note to all districts to inform the people. The *ḥabā'il* (tribes), *ra'āyā* (peasants and craftsmen, etc.), sultans, and *ṣubyān* collect at the village of the deceased. They recite the Koran over his grave, and are entertained to a feast known as *walimat al-naqaḍ*,² the expenses of which are borne by the brother or son of the late maṣṣab.

The chiefs of the land (*ru'asā 'l-Ard*) collect and select a new maṣṣab, that is to say the principal persons and the representatives of the various classes. The *ra'āyā* have no real head of their class, but they elect (*istanḫabū*) one. Notables of all sections then, including the *Maṣḥā'ikh*, collect in a circle in the open. All must consent to the election. The *dawlah* (sultans) are said to be present only for consultation, as the election is a matter for the people of the district, but I was informed that Sultan *Ṣāliḥ* bin Muḥsin of 'Azzān

¹ For the *Ḥawṭah* and the *Ḥabat*, material from Landberg has been utilized in articles in the *Encycl. of Islam*. These might be consulted. *Ṣa'id* is a *Ḥabat*.

² *naqaḍ* to go away (according to my informants). Gl. Dath. gives it the sense of to annul, untie.

was a supporter (ḥamil) at the election of the Shaiḫ of Al-Rawḍah. I am not sure whether potential maṣṣabs would be present at the election, but I think they can hardly be present at the preliminary discussions.

Among the Bin 'Abd al-Māni', there are three branches (shu'ūb). and the maṣṣabate passes from one branch to another in rotation, The other Mashā'ikh have the office of maṣṣab confined to one house (dār) only.¹

When the maṣṣab has been elected, one of the maṣṣab's own fakhīdhah (section) walks round the assembled circle several times, carrying a rosary, and then throws it over the head of the chosen person, saying: "This is our father" (Hādhā abū-nā). All present inform the newly elected shaiḫ that they wish him to be their maṣṣab. The tribesmen like a maṣṣab to be generous with the funds at his disposal, but for his functions, clearly he must be endowed with other qualities also.

After this, all go and visit the walī (saint) whose descendant the maṣṣab is, and the maṣṣab enters the ḡubbah (domed tomb) with all the people. They touch the ḡafaṣ (wooden or adobe ark-shaped canopy over the tomb), and go round the shawāhid (either the four corner-posts of the canopy, or the projecting upright stones on top of the tomb),² beat drums, and sing mūkhīdhs (panegyrics of the saint), a sort of chant. From here all proceed to the maṣṣab's house and entertainment (ḡiyāfah) is prepared for them. They feast, and each individual gives the maṣṣab a present, every man according to his means (kullain bi-ḡadaruh), to help to defray the expenses of the occasion.

When he is appointed, conditions are made with a maṣṣab. Shaiḫ 'Abdullāh Bā Ḳādir showed me the agreement made at his own election, but I did not find it of sufficient interest to transcribe and examine in the limited time at my disposal. I did note its principal terms. The maṣṣab entertains all who come. He judges between the tribes and the ra'āyā. According to usual practice in South Arabia, the tribes must help the maṣṣab against a wrong-

¹ For the Mashā'ikh of the Wāhīdī area, see Landberg, *Arabica V*, op. cit., pp. 189 ff. The Mashā'ikh of Ṣa'īd, Ḍjōl al-Shaiḫ, al-Ḥawtah, and Al-Rawḍah, are all descended from a common ancestor, and they claim descent from 'Abd al-Ḳādir al-Ḍjilānī.

² For some notes and sketches of the shapes of tombs, see my *The Cemeteries of Tarīm* (Muséon, (Louvain, 1949)).

doer or pay a fine. The main part of the agreement was largely taken up with a list of fines for offences by tribesmen (ḡabā'il) against miskins (peasants). If, for example, the ḡabīlī should steal an ox, he must return the ox and a sum equivalent to its value, half (nāṣifah) to the maṣṣab, and half to the robbed person (manhūb). If a ḡabīlī commits a misdemeanour, the usual procedure is to interdict him from the sūḡ (market), which in the case of Ḥawṭat al-Faḡīḡ 'Alī is an important sanctuary. The economic insufficiency of the tribesman is thus apparent, as he must have recourse to the market, and this is a powerful weapon in the hands of a maṣṣab.

GLOSSARY TO THE TEXT

دَمِين dimin. of دَمِين *a sort of bird of the mountains.*

تَقَدَّ الكَلَامُ *scrutiny of a case.* Gl. Dath., تَقَدَّ *avoir du jugement.*

Lane, "suitableness of a judgment, and of what involves or implies a judgment."

حَقَّ *Setting forth of claims.*

يَوْمَا *At once, quickly.*

اَزْدَفَر *infra* *to be held firm, withheld.* Cf. Gl. Dath., for allied stems.

سَرَحَ *Bring forth, produce.* Cf. Gl. Dath.

نَيْبَ Note this type of Imperative common in Ḥaḡramawt, etc.

مَقَّيَ Part. Act. Stem IV of مَقَّ, u. Note the vowel of the preformative and compare مَقَّيَ *infra.* Gl. Dath. اَتَى *tourner le dos, s'en aller, partir.* Thence it must mean *to refuse.* Cf. مَقَّ *supra.*

فَانِي Gl. Dath., gives فَا as *injurier*, and فَنِي *injure*, and it may be from this sense that فَانِي is derived. It means here *a fine for the theft of an animal, paid as compensation to the owner.*

رَبْعَ Custom. Cf. رَبْعَ *an arbitrator* according to customary law. Cf. *Djāhīz, Ḥayawān* (Cairo, 1356 H.), i, 167, where women are described as العار الاكبر.

عَار *Female relative*, explained in notes to translation.

عَدَّ *A beating.* Cf. Gl. Dath.

تَقْصُرُ Verbal N. Stem II, as frequently in dialect. One says, فُلَانٌ قَصَرَ فِي فُلَانٍ *A. has not fulfilled his duty by B.* Here it means *not having received the kashsh owed her.*

دَفَّ See notes to translation.

سَبَّ Usually *arms*, but here *women's appurtenances*, i.e. clothing, jewellery, ornaments, cosmetics. Syn. فَنَن. For both words see Gl. Dath.

فَصَل Syn. حُكْم, *sentence, judgment*. Cf. Kor. LXXXVI. 13: "distinguishing between what is true and what is false."

عَدَل *A just person*, as in Class.

فِئِم pl. فُئِمَا *interested persons*. Cf. *supra*.

فَاز *Outstanding*.

صَاب i.e. اصَاب.

شَقِيَه *Compensation for injury, damages*. Gl. Dath, *gages*.

لَبَّ *To fail*. Gl. Dath., *être fatigué*.

حَلَاَه Lane, *swearing, that swears much or often*.

حَكَاه Explained in notes to translation.

ثَالِي *Second*. Cf. Gl. Dath.

قَوَّر i.e. الْأَقْوَر *The obstinate*.

مُطَفِيَه Part. Act. اُطْفَأَ.

ثَرَا Class. ثَرَا *wealth*.

ثَرِيَه Explained as *inheritance*. See notes to translation.

خَرَجُوا i.e. اَخْرَجُوا, the alif indicating a stressed penultimate syllable only, an error of orthography. *To emerge from a case, to be acquitted*, etc. This verb so used, is a technical term of tribal law, used also in other stems. Various forms of this root appear in several documents in my collection.